

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:98-CR-9-2H  
No. 4:11-CV-166-H

TERRANCE MAURICE MILES,           )  
    Petitioner,                    )  
                                      )  
                                      )  
v.                                    )  
                                      )  
                                      )  
UNITED STATES OF AMERICA,        )  
    Respondent.                    )

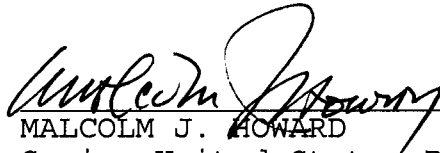
**ORDER**

This matter is before the court on petitioner's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255, filed October 3, 2011. Petitioner previously filed a motion pursuant to § 2255, which was denied by this court on June 3, 2003. (See DE #313.) Because the motion presently before the court is a successive § 2255 motion, this court is without jurisdiction to consider it. See 28 U.S.C. § 2255(h) ("A second or successive motion must be certified . . . by a panel of the appropriate court of appeals . . . ."). Accordingly, petitioner's motion [DE #560] is DISMISSED WITHOUT PREJUDICE to petitioner's right to apply to the Fourth Circuit for leave to file a successive § 2255 motion.

Because petitioner's motion is dismissed without prejudice to his right to apply to the Fourth Circuit for leave, this order does not raise a substantial issue for appeal concerning the denial of

a constitutional right. Accordingly, a certificate of appealability is not issued as to this order.

This 27<sup>th</sup> day of December 2011.

A handwritten signature in black ink, appearing to read "Malcolm J. Howard", written over a horizontal line.

MALCOLM J. HOWARD  
Senior United States District Judge

At Greenville, NC  
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